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No. 84-461

In The
Supreme Court of the United States
October Term, 1984

PISCATAWAY TOWNSHIP BOARD OF EDUCATION
Petitioner,

vs.

T.G. and P.G., Individually and on behalf of their child, D.G., COMMUNITY MENTAL HEALTH CENTER OF RUTGERS MEDICAL SCHOOL, COLLEGE OF MEDICINE AND DENTISTRY OF NEW JERSEY,
Respondents.

BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI ON BEHALF OF T.G. AND P.G., AND THEIR INFANT CHILD, D.G.

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QUESTIONS PRESENTED

1. Whether this Court should deny the writ since the standards set forth in Rule 19 have not been met?

2. Whether the decisions of the Courts below were in accord with other applicable decisions of this Court?

3. Was the therapy and counseling given to D.G. a "related service" under the Education For All Handicapped Children Act, 20 U.S.C. § 1401 et. seq?

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OPINIONS BELOW

The Judgment Order of the United States Court of Appeals for the Third Circuit dated June 21, 1984 is printed in Petitioner's Appendix at page 1a. The opinion of the United States District Court for the District of New Jersey dated December 12, 1983, *T.G. v. Bd. of Education of Piscataway,* 576 F.Supp. 420 (D.N.J. 1983) is printed in Petitioner's Appendix at page 4a.

JURISDICTION

Jurisdiction is conferred on this Court in accordance with 28 U.S.C. § 1254(1).

STATUTORY AND REGULATORY PROVISIONS INVOLVED

1. 20 U.S.C. § 1401 (17):

> The term "related services" means transportation, and such developmental, corrective and other supporting services, including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling service, except that such medical services shall be for diagnostic and evaluative purposes only as may be required to assist a handicapped child to benefit from special education . . .

2. 45 C.F.R. 121a.13:

> Defines related services as meaning "transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education and in-

cludes . . . psychological services . . . counseling services . . . The term also includes school health services, social work services in schools, and parent counseling and training . . .

3. 45 C.F.R. 121a.13(b)(2):

"Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel . . .

4. 45 C.F.R. 121a.13(b)(8):

"Psychological services" include: (i) administering psychological and educational tests, and other assessment procedures; (ii) interpreting assessment results; (iii) obtaining, intergrating, and interpreting information about child behavior and conditions relating to learning; (iv) consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behaviorial evaluations; and (v) planning and managing a program of psychological services, including psychological counseling for children and parents . . . "

STATEMENT OF THE CASE

This litigation commenced by plaintiffs' filing a Complaint in accordance with the Education for All Handicapped Children Act, 20 *U.S.C.* 1401, *et. seq.* The Court of Appeals for the Third Circuit affirmed the entry of summary judgment since, after all reasonable inferences had been drawn in favor of the non-moving party, there remained no genuine issue of material fact, and plaintiffs were entitled to judgment as a matter of law.

Plaintiff, "D.G.", is a handicapped child who has been classified by the Board of Education of Piscataway ("Board") as emotionally disturbed. Psychological testing by the Board's Child Study Team ("CST") resulted in a recommendation that D.G. be provided with a "totally therapeutic environment in a special education day school for the emotionally disturbed." Petitioner's brief, page 4 states *inter alia,* "Nowhere did the IEP specify psychotherapy or any other 'psychological services' as a required component of the educational plan." This is false and not in accordance with the evidence on record below. Petitioner's appendix is incomplete and as a result misleading. Also, pages 18a through 30a contain only the second part of the individualized educational plan ("IEP") for D.G. The Petitioner's CST prepared the IEP. The IEP is composed of two parts, the basic plan section and the instructional guide. Together, they form the IEP. The New Jersey regulations are contained in the New Jersey Administrative Code.

N.J.A.C. 6:28-1.8(b) provides:

> The individualized education program for each educationally handicapped pupil shall consist of a basic plan section and an instructional guide necessary to assist the teacher(s) in planning and providing ongoing activities.

N.J.A.C. 6:28-1.8(d)2 provides:

> The basic plan section of the individualized education program shall include, but not be limited to:
>
> (2) A statement of the team's decision which determined pupil eligibility for special education and related services.

The basic plan section is, in reality, the first and most important part of any IEP. This basic plan section is

found at Ra-1. This document summarizes D.G.'s problems and states that his emotional disturbance is interfering with his ability to learn. On page Ra-4 the recommended program is stated:

> "1. Classify as Emotionally Disturbed.
>
> "2. Be provided with a totally therapeutic environment in a special education day school for the Emotionally Disturbed that will provide him with the controls and individual attention necessary for his social and emotional development. This is viewed as the least restrictive environment to meet his needs."

As can be seen, the document is signed by the entire Child Study Team.

Thus, D.G.'s IEP mandated a totally therapeutic environment be provided. The Courts below found that a therapeutic environment must, by definition, contain some therapy. To assert otherwise would be nonsense. The basic plan section calls for a therapeutic environment, the parents were told that it was needed, and there was no choice but to accept it as part of the educational program.

Through discovery, it was determined that the Board of Education maintained a running record of all telephone calls made relative to D.G. Found at Ra-5 is the six-page record in this case. On page Ra-6, next to the date of August 18, 1980, at 3:00 p.m., Mrs. Walker (a social worker with the Board of Education) placed a telephone call to D.G.'s father, T.G. The following notation then appears:

> "Ms. W. said Team agrees w/psychologist (Rapps) that out placement is best. But since psychotherapy is needed, Team thinks Rutgers Day Hospital is best because other schools don't have therapy."

On August 22nd at 2:00 p.m. a meeting was held at the Board of Education building in Piscataway. Present were the parents, Mrs. Maron (school social worker), and other school personnel. Ra-9 contains a summary of this meeting. D.G.'s mother (P.G.) raised the question as to payment of certain costs:

> "No one was 'aware' that costs were involved and if they were, major medical covered the costs to a large extent. Mrs. Maron mentioned a need to explain to State steps (sic) prior to sending Dan to day school and gave an evasive answer to T.G.'s question on how they would justify it."

The Board then told D.G.'s parents that the Community Health Center of Rutgers Medical School in Piscataway was the most appropriate and least restrictive placement for D.G. The CST and the parents developed an individualized educational plan (IEP) for D.G. for the 1980/81 school year. The CST informed the parents that psychotherapy would be needed for D.G.'s education. In January, 1983, D.G. returned to his neighborhood school, since much progress had been made at the Child Day Hospital.

In accordance with the IEP a form of counseling was given to D.G. by staff at the Community Mental Health Center. This counseling was performed as part of the educational program by non-educationally certified personnel. D.G. received therapy from Ms. Carol Borowka, a social worker, and Ms. Gay Belknap, an art teacher.

When the parents of D.G. (T.G. and P.G.) brought their son to Child Day Hospital, they were told that the program requires, *without option*, that every pupil must participate in the "therapeutic treatment" portion of the

day program. They were further informed that this "treatment" was an integral part of the educational program and was absolutely required if D.G. was to benefit from his education.

The parents informed the Board that the costs of counseling should not be their responsibility. The Board declined payment of the bill, which now totals $25,200.00, a sum far in excess of the parents' financial abilities.

On October 11, 1983, the Honorable Harold A. Ackerman considered motions for summary judgment made by all parties. Summary judgment was granted in favor of plaintiffs and held that the defendant Board of Education was responsible for the cost of the therapy given D.G. at the Rutgers Community Mental Health Center.

———o———

REASONS FOR DENYING THE WRIT

I.

The Therapy Provided D.G. Is A "Related Service" Under The Act.

A close reading of the lower courts' opinion makes clear that there was no judicial pronouncement that the therapy rendered D.G. was in fact "psychotherapy." The opinion printed in petitioner's appendix at 13a, states:

> "In fact, it is undisputed here that the so-called psychotherapy which D.G. received at the hospital, while administered under the supervision of a trained psychiatrist, was actually provided on a day-to-day basis by a staff member with no more credentials than a Masters in Social Work degree. Thus, D.G.'s therapy might be described equally appropriately as 'coun-

> seling services' or 'psychological counseling'—both of which are specifically included by the regulations among the related services required to be provided at no cost to the parents under the Act."

This is significant since the cases that Petitioner relies upon deals mainly with the "medical services" exclusion from related services. In this regard Petitioner would have the court believe that the therapy given D.G. was medical in nature, as was the *psychiatric* services rendered in *Darlene L. v. Illinois State Bd. of Education,* 568 F.Supp. 1340 (N.D. Ill, E.D. 1983). In *Darlene L.,* supra, the services were provided by licensed physicians. In the case at bar, D.G. received therapy from two individuals, a Ms. Carol Borowka, a social worker holding a Masters of Social Work degree (MSW) and a Ms. Gay Belknap, an art teacher holding a Bachelor of Fine Arts degree (BFA). It was suggested below that the Petitioner has in its employ many social workers and art teachers who could have provided the counseling received by D.G. Furthermore, the label "psychotherapy" is very misleading. It appears that Child Day Hospital is imposing this term on a group of services which include services that are to be provided without charge to the parent under the Federal Code above cited and under the New Jersey Administrative Code 6:28-1.2. To this extent, the charges are improper and the label (psychotherapy) is gratuitous.

Assuming for the moment that the counseling by the social worker and art teacher was psychotherapy, there exists consistent case law which includes this type of theapy in the definition of a related service. *In the Matter of the "A" Family,* 184 Mont. 145, 602 P. 2nd 157 (Mont. 1979); *Papacoda v. State of Connecticut,* 528 F. Supp. 68

(D. Conn. 1981). These cases correctly conclude that psychotherapy must be provided at no cost to the parent. In fact, a close reading of the New Jersey definition of related services upholds this view. There appears to be a distinction made between medical and non-medical services. N.J.A.C. 6:28-1.2 reads as follows:

> "Related services" means transportation and such developmental, *corrective,* social and other *supportive* services as are required to assist a handicapped pupil to benefit from a free and appropriate education. This includes *speech correction, audiology, psychological* services, social work services, learning consultant services, *physical therapy, occupational therapy, recreation,* early identification and assessment of disabilities in pupils, vocational services, counseling services *and medical and psychiatric services for diagnostic or evaluation purposes.* The term includes, but is not limited to, parent counseling related to the education of a pupil and other related services that may be required as a part of the pupil's individualized education program. The term does not include *medical treatment* or the provision of prosthetic devices for personal use outside of an educational program. Consistent with professional ethics, school personnel may make suggestions or give advice regarding the need for additional services which are not required by these regulations and which become the option of the parent to follow or not. Such recommendations place no obligation on the school district to provide or fund such services (emphasis added)."

It should be noted that the phrase "and medical and psychiatric services *for diagnostic or evaluation purposes"* is separated from the types of services that are included as possible related services by it being related to diagnostic or evaluation purposes. In addition, the term does not include medical treatment.

"Medical Services" is a very specific *legal* term in P.L. 94-142. Despite common usage of the word "medical," P.L. 94-142 includes *only* services which are "provided by a *licensed physician*". (Regulations, 300.13(b)(4)). Thus, any service which is otherwise a related service, and which is provided by a *non-physician* (including therapists, nurses, counselors, psychologists, audiologists, etc.), is not a "medical" service under P.L. 94-142 and, thus, may be an educational responsibility. It is worth noting that the cause generating the need for a service may be medical, but the effect, and their amelioration, is often educational and particularly so under the broad concept of education that now permeates out law. Clearly in this case, an art teacher and social worker did not render to D.G. either medical treatment or psychiatric services.

The court's decision in *Irving Independent School District v. Tatro,* 68 U.S. —, 104 S.Ct. —, 82 L.Ed. 2d 664 (July 5, 1984) does not aid petitioner's cause. The court there dealt with the issues of what is a "related service." The court held, at page 673:

> "We also agree with the Court of Appeals that provision of CIC is not a 'medical service,' which a school is required to provide only for purposes of diagnosis or evaluation. See 20 U.S.C. §1401(17) (20 USCS §1401 (17)). We begin with the regulations of the Department of Education, which are entitled to deference. See, e.g., Blum v. Bacon, 457 US 132, 141, 72 L.Ed. 2d 728, 102 S.Ct. 2355 (1982). The regulations define 'related services' for handicapped children to include 'school health services,' 34 CFR §300.13(a) (1983), which are defined in turn as 'services provided by a qualified school nurse or other qualified person,' §300.13(b)(10). 'Medical services' are defined as 'services provided by a licensed physician.' §300.3(b)(4). Thus, the Secretary had determined that the services of a school nurse otherwise qualifying as a 'related

service' are not subject to exclusion as a 'medical service,' but that the services of a physician are excludable as such.

"This definition of 'medical services' is a reasonable interpretation of congressional intent. Although Congress devoted little discussion to the 'medical services' exclusion, the Secretary could reasonably have concluded that it was designed to spare schools from an obligation to provide a service that might well prove unduly expensive and beyond the range of their competence. From this understanding of congressional purpose, the Secretary could reasonably have concluded that Congress intended to impose the obligation to provide school nursing services.

"Congress plainly required schools to hire various specially trained personnel to help handicapped children, such as 'trained occupational therapists, speech therapists, psychologists, social workers and other appropriately trained personnel.' S Rep No. 94-168, supra, at 33. School urses have long been a part of the educational system, and the Secretary could therefore reasonably conclude that school nursing services are not the sort of burden that Congress intended to exclude as a 'medical service.' By limiting the 'medical services' exclusion to the services of a physician or hospital, both far more expensive, the Secretary has given a permissible construction to the provision.

"Petitioner's contrary interpretation of the 'medical services' exclusion is unconvincing. In Petitioner's view, CIC is a 'medical service,' even though it may be provided by a nurse or trained layperson; that conclusion rests on its reading of Texas law that confines CIC to uses in accordance with a physician's prescription and under a physician's ultimate supervision. Aside from conflicting with the Secretary's reasonable interpretation of congressional intent, however, such a rule would be anomalous. Nurses in Petitioner's school district are authorized to dispense oral medications and administer emergency injections in

accordance with a physician's prescription. This kind of service for nonhandicapped children is difficult to distinguish from the provision of CIC to the handicapped.

"It would be strange indeed if Congress, in attempting to extend special services to handicapped children, were unwilling to guarantee them services of a kind that are routinely provided to the nonhandicapped.

"To keep in perspective the obligation to provide services that relate to both the health and educational needs of the handicapped students, we note several limitations that should minimize the burden Petitioner fears. First, to be entitled to related services, a child must be handicapped so as to require special education. See 20 U.S.C. §1401(1) (20 USCS §1401(1)); 34 CFR §300.5 (1983). In the absence of a handicap that requires special education, the need for what otherwise might qualify as a related service does not create an obligation under the Act. See 34 CFR §300.14, Comment (1) (1983).

"Second, only those services necessary to aid a handicapped child to benefit from special education must be provided, regardless how easily a school nurse or layperson could furnish them. For example, if a particular medication or treatment may appropriately be administered to a handicapped child other than during the school day, a school is not required to provide nursing services to administer it.

"Third, the regulations state that school nursing services must be provided only if they can be performed by a nurse or other qualified person, not if they must be performed by a physician. See 34 CFR §§300.13 (a)(b)(4), (b) (10) (1983). It bears mentioning that here not even the services of a nurse are required; as is conceded, a layperson with minimal training is qualified to provide CIC. See also, e.g., Department of Education of Hawaii v. Katherine D, 727 F2d 809 (CA9 1983) (Footnotes deleted.)"

Based upon the above, it should be clear that Petitioner misconstrues the holding in *Tatro*. Indeed, the Petitioner in *Tatro* was urging that a service be deemed medical in nature if there was some direct supervision by a physician. The Court rejected that notion and relied in part on the regulations of the Department of Education which flatly state that "medical services" are "services provided by a licensed physician."

The Court in *Tatro* enunciated the "test" as to whether or not a particular service is an included "related service" or an excluded "medical service." In order to be an included related service it cannot be rendered directly by a physician or hospital; a child must be handicapped so as to require special education; the services must be necessary to enable a handicapped child to benefit from special education; and the service to be beneficial must be administered during the school day. The therapy given D.G. fits squarely into this definition. Although Petitioner argues that the therapy was beyond the range of school personnel, there is not one shred of evidence supporting this argument. On the contrary, as the District Court found, ". . . the so-called psychotherapy which D.G. received . . . was actually provided . . . by a staff member with no more credentials than a Masters in Social Work degree." (13a).

II.

The District Court Did Not Err In Granting Summary Judgment In This Matter.

Petitioner's brief suggests that there were genuine issues of material fact such that summary judgment should not have been granted. This is ironic in that it was Peti-

tioner who first moved before the District Court for summary judgment, alleging that there were no issues of material fact. The material facts were not in dispute, and the Court below so found. The perceptions and representations of the parties at the time of placement were not relevant to the issue of whether or not the therapy D.G. received was a "related service."

As the Court below noted in its decision, the Federal Rules of Civil Procedure provides that summary judgment is not to be granted unless, after all reasonable inferences have been drawn in favor of the non-moving party, there remains no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. The Court found that the Child Study Team's IEP recommended that D.G. be provided with a totally therapeutic environment in a special education day school for the emotionally disturbed that will provide him with the controls and individual attention necessary for his social and emotional development. This was viewed as the least restrictive environment to meet D.G.'s needs. The Court also found that both the Petitioner and the parents agreed upon D.G.'s placement at Child Day Hospital and that the therapy provided to D.G. by the Hospital was a required part of its program. As such, the therapy was designed as an essential service to allow D.G. to benefit from the educational program planned for him. It was not designed as part of a package to maximize his performance in accordance with his potential as was the case in *Board of Education of the Hendrick Hudson Central School District v. Rowley,* 458 U.S. 176, 102 S. Ct. 3034, 73 L.Ed. 2d 690 (1982).

The District Court had ample evidence to conclude that there was no genuine issue as to any material fact, and respondents were entitled to a judgment as a matter of law.

III.

The Court In Its Sound Judicial Discretion Should Deny The Writ.

All of the published cases dealing with psychotherapy as a related service are consistent with one another. *Darlene L.*, supra, *In The Matter of The "A" Family,* 184 Mont. 145, 602 P.2d 157 (Mont. 1979), *Papacoda v. State of Connecticut,* 528 F.Supp. 68 (D. Conn. 1981), *T.G. v. Bd. of Education of Piscataway,* 576 F.Supp. 420 (D. N.J. 1983). These cases are in accord with the outcome in the case at bar. There is not here an important question of federal law which should be settled by this Court. It has already been decided.

The Supreme Court has dealt with the issue of the medical services exclusion by virtue of the *Tatro* decision. The Court below arrived at a result completely and wholly consistent with *Tatro.* This Court should not be called on to render decisions as to each possible service that a handicapped child may be given. There is no comprehensive listing of what can be a related service and the law has already been made clear as to the issue of medical versus non-medical services. Petitioner has not met the requirements of Rule 19 and the writ should be denied.

CONCLUSION

For the reasons set forth above, the respondents herein submit that a writ of certiorari should not be granted in this case.

Respectfully submitted,

/s/ THEODORE A. SUSSAN
Attorney for Respondents

APPENDIX

PISCATAWAY TOWNSHIP SCHOOLS
Department of Special Services
Piscataway, New Jersey

INDIVIDUAL EDUCATION PROGRAM
BASIC PLAN SECTION

PUPIL'S NAME: Daniel Ginsberg

DATE OF BIRTH: 4/2/72

PRESENT PLACEMENT: Martin Luther King—Patricia Spencer—Grade 3

DATE: September 24, 1980

REASON FOR REFERRAL:

Social and behavioral problems influencing academic performance.

CHILD STUDY TEAM SUMMARIES:

Educational Evaluation Summary:

Daniel is an 8 year old third grader who has been experiencing increasing difficulty with social skills and behavior in school. He has poor work habits, is very distractible, and seems to need constant supervision in order to remain on task.

Testing indicates that Daniel is presently functioning in the average range of intellectual ability with strengths in vocabulary development, general information, and auditory memory. Auditory perception skills are generally well developed. Daniel's visual-motor integration skills are more than a year below his chronological age and visual perception is inadequately developed, with specific weaknesses in the areas of visual memory and closure.

Daniel is capable of reading well above grade level, as he posses excellent phonetic skills and comprehension. Oral reading is at a mid-third grade level and is marked by errors of omission, substitution, and insertion. Silently, Daniel comprehends material adequately to a mid-fourth grade level, and word recognition skills are developed to a six grade level. Daniel's fine-motor skills are poor, and his handwriting is executed too quickly and carelessly, resulting in an almost illegible product.

Daniel seems to be generally preoccupied with his own thoughts and does not exert a good deal of effort when working on academic tasks. He lacks motivation and does not seem to derive satisfaction from his obvious academic abilities. Daniel needs to acquire a greater awareness of his own strengths and weaknesses and develop some interest in improving weak areas as well as pride in his many accomplishments.

Social Work Summary:

Danny was referred to the Child Study Team for an evaluation by his teacher because of concern over his social and academic functioning. He was previously evaluated privately in 1977, as a pre-schooler, but not classified. The Ginsbergs have been concerned about Danny for quite some time. According to them, they were always told that they had a "difficult" child, until a Psychological Evaluation, conducted in June, 1980, diagnosed residual autism.

Danny was adopted at twenty months. Very little is known about his early history. Since the Ginsbergs have had Danny, they have been under considerable strain, and the management of his behavior has been a continuing problem.

Danny was described as a boy who does not know how to communicate with people. However, he has a tendency to become fixated on objects and can spend considerable time talking to or about them. His social behavior was characterized as very inappropriate and "animalistic". When interviewed by the Social Worker, Danny responded minimally to all questions. He was very pre-occupied with a toy that he was pretending was a rocketship. Danny talked to himself and the toy continually during the interview and was very active.

The Ginsbergs are very concerned and anxious that Danny be placed in a program that can help him as soon as possible.

Psychological Evaluation Summary:

Danny is a bright boy whose non-verbal productions do not parallel his verbal abiility. There seem to be autistic features which are interfering with his ability to function to potential academically, socially, or emotionally.

Because Danny has such difficulty concentrating on the work at hand and noes not interact with teachers or peers in an acceptable manner, he cannot receive an optimal educational experience within the framework of a regular classroom even if he were to receive additional help in the form of Resource Room or supplemental instruction.

Health Summary:

Normal physical (August 8, 1980)

Neuropsychiatric Evaluation Summary:

Daniel is presently functioning on an emotionally disturbed level as indicated by his extremely immature behavior and lack of age-appropriate emotional controls. Although he is a basically intelligent boy, many of his thoughts are

atypical and lack a sense of reality that is normal for a child his age. His continuous questioning and continuous activity are reminiscent of a much younger child as are his figure drawings. He has a poor self-concept and lacks a strong sense of identity.

TEAM CONCLUSIONS:

Intellectually, Daniel is functioning in the average range, with a significant discrepancy in favor of verbal items wherein he is functioning in the high-average range. Abstract reasoning and knowledge of vocabularly words were his relative strengths. Daniel's functioning is directly affected by pronounced external difficulties. His behavior is similiar to that of a much younger boy. He exhibits many infantile patterns and seems inner driven. Many of his mannerisms and behaviors are unique. Daniel is distractible and often introduces irrelevant material to a discussion. Daniel has a tendency to become fixated on inanimate objects and does not perceive the effect of his actions and does not understand the consequences.

Perceptually, Danny's auditory processes are a significant strength. However, visual perceptual deficits exist in the areas of memory, closure, and visual-motor integration.

Academically, Daniel reads with excellent comprehension to a mid-fourth grade level, although orally he makes numerous errors of omission beyond the mid-third grade level. Daniel has excellent word recognition and phonetic skills which he utilized to spell at a mid-fourth grade level. Arithmetic skills are at a mid-third grade level. Daniel's written work reveals his poorly developed handwriting as well as a lack of serious effort. The absence of persever-

ance may have resulted in generally depressed academic skills.

Daniel's parents are concerned that his problems be acknowledged by the school district and are anxious that remediation of them begin as soon as possible. At home Daniel is reported to be almost impossible to manage. The management problem and its impact on family members has reportedly been the basis for much stress within the family.

RECOMMENDED PROGRAM:

1. Classify as Emotionally Disturbed.
2. Be provided with a totally therapeutic environment in a special education day school for the Emotionally Disturbed that will provide him with the controls and individual attention necessary for his social and emotional development. This is viewed as the least restrictive environment to meet his needs.

CHILD STUDY TEAM MEMBER'S ROLE FOR IMPLEMENTING THE VARIOUS ASPECTS OF THE IEP:

The LDTC will monitor the educational program.

The Social Worker will maintain appropriate contact with the family.

The Psychologist will consult with the school personnel regarding emotional development.

/s/ Evelyn Maron
School Social Worker

/s/ Mildred Haines
Learning Disabilities
Teacher-Consultant

/s/ Joseph Gugliemella
School Psychologist

EM:JG:MH:su

TELEPHONE CALLS RE: DANNY/SCHOOL

Date—Time—Caller—Callee—Summary:

8/12/80, 10:30 a.m., TG, Mr. Collier: 1) Inquired re. my letter 5/8/4. 2) Mr. Collier said reply was sent out. 3) TG described situation. 4) Mr. Collier said Child Study Team is employed 10 mos./yr.—important to call now. 5) TG described how Mr. Collier's name was obtained—through Mr. Wilson. 6) Collier said he can get a Second Team if there are cancellations (if no cancellation, can get outside evaluation).

8/12, 5 p.m., Betty Walker (Social Worker), TG/PG: 1) Mr. Collier asked her if cancellation—she has one cancellation for Wed. 13/Thu. 14. TG asks for Thu. 14. 2) Walker OK—3 p.m.

8/14, Meeting w/Betty Walker: Explanation of Dan's problem. TG signed form for evaluation at meeting. Dan evaluated by Mrs. Greenfield and seen by Mrs. Walker.

8/18, 9:45 a.m., PG, Betty Walker: BW told PG Team thinking of Day Placement. BW making calls to find places. Ms. Maron now the social worker on this case and would continue contacts. Appointment set for 9/10 for psychiatric evaluation.

8/18, 3 p.m., Mrs. Walker, T. Ginsberg: Mrs. W. said Team agrees w/Psychologist (Rapps) that out placement is best. But since psychotherapy is needed, Team thinks Rutgers Day Hospital is best because other schools don't have therapy. Mrs. W. tried to find out how to get admission to RDH—found that they do own screening & testing. Requested TG to call Northern Focus Team (Rutger's screening arm) and initiate process.

8/18, 3:30 p.m., TG, Dr. Finkelstein (Northern Focus): TG described above conversation. Dr. F requested brief outline, which TG did. Dr. F requested copies of Reports to be sent to him ASAP. Dr. F said he

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was not sure there *is* room available in this program. TG requested to find out.

8/18, 3:45 p.m. Dr. F., TG: Dr. F. found out that there *is* room available, reiterated to send Reports ASAP to instate process.

8/19, 3:45 p.m., PG, Dr. Travis (RDH) left message to be called back.

8/19, — : PG delivered 1977 records (Chase, Rosenberg Speeck) and Rapps report to Dr. Finkelstein. Left w/receptionist.

8/20, 9:30 a.m., PG, Mrs. Evelyn Maron: PG recapped TG conversation w/(social worker)- Dr. Finkelstein, EM stated they are waiting for results of RDH evaluation. She would check if School Board had been requested to vote funds for Dan's Day Placement and might need contingency plan for start of school in Sept. since placement impossible by then. PG suggested meeting with Team this week to discuss.

8/20, 10:15 a.m., Maron, PG: School Board already met in Aug. Request for Day Placement Funds to be voted on at 9/15 meeting. Maron argued for meeting of Team and PG and TG meeting, set tentatively for Fri. 8/22 at 2 p.m. EM to call and confirm or set another time in a.m. of 8/22.

8/20, 10:30 a.m., PG: Dr. Finklestein left message to call back.

8/20, 1 p.m., Dr. Finklestein: PG confirmed that received reports and had given them to director (PG unable to get specific name). Appropriate directors of RDH and NFT aware of problem. RDH would discuss and if feel appropriate for school, would call.

8/21 2:15 Dr. Travis PG. PG get brief summary. Dr. T. Said RDH E. Maron had been conferring for evalution of pupil as well as someone from NFI. PG mentioned Dr. Kinklestein. Dr. T. said sounded as though they would be interested in evaluating D (which includes meeting w/whole family). He would get copies

of the reports and after consideration notify TG&PE. If can't reach by phone, would write during week of 8/25 & evaluation would probably be in a few weeks. Confirmed RDH has openings.

8/21, 3:30 p.m. PG Mrs. Maron EM confirmed appt. at 2 on 8/22

8/22, 1:20 p.m. Dr. Travis PG. Meeting set for 9/4 at 9:30 of whole family w/RDH—Dr. Travis. Dan to stay longer to mingle w/class & possibly meet w/ phychiatrist (?or psychologist?)

8/22, 2:00 p.m. Meeting at Board of Education Building: TG, PG, Mrs. Maron, Mrs. Greenfield, & 2 school psychologists (male). See next page for summary.

9/10, 10:45 a.m. Informal chat PG & Mrs. Maron & Mrs. Walker, separately, while Dan being evaluated by Dr. Forman.

Mrs. M. asked how things going at RDH. PG informed OK to Dan's admission by Dr. Travis but more discussion with staff necessary before final answer possibly early week of 8/15. Mrs. M. stated she would call Dr. Travis after Dr. Foreman completed evaluation & then would tell us re classification & IEP.

Summary of meeting with Team 8/22/80 at 2 p.m.

Mrs. Greenfield went over her report of the evaluation done on 8/14/80. Danny has the intellectual ability and is on/above grade level but is highly distractable. He works well on a 1 to 1 basis. Mrs. Deef claimed the problems began at the end of the 2nd grade when he went off the Feingold diet. Dan has good "auditory" perception but poor visual perception & a good memory. She had asked Dan to write something about himself. Dan wrote about the weather. Mrs. Maron mentioned RDH & that Dr. Travis had asked her to mention the appointment available on Sept. 4 in case he couldn't reach PG. In response to question about RDH by TG, Mrs. Maron said that at RDH they keep up the academic skills and have counseling to the whole family (how to deal with and

handle Dan) as well as individual and group psychotherapy for Dan. Until RDH answers Dan would be in "holding pattern" at King School. He would start 3rd grade in Mrs. Spencer's room with (?) help in resource room and/or the emotionally disturbed classroom until he could be placed in RDH if they are willing to take him. If RDH gives negative response, he would attend the E.D. class and/or Resource Room at King. Mrs. Maron stated that if Dan is sent to RDH, School Board would be paying a bill of $7,000 including transportation. *PG raised the question of payment for evaluation at RDH. No one was "aware" that costs were involved & if they were, Major Medical covered the costs to a large extent. Mrs. Maron mentioned a need to explain to State steps prior to sending Dan to Day School & gave an evasive answer to TG question on how they would justify it.* TG mentioned he felt the classification would be "emotionally disturbed." No one disagreed.

9/10, 11:00 Mrs. Walker asked if we received copy of her report & that of Mrs. Greenfield. When told no, she stated we would be given them at the IEP meeting.

9/15, 2:15 p.m. Mrs. Maron PG. asked about medical form. Need it before meeting. Set up meeting at 2:15 9/24/80 at King w/Team. PG would check w/Dr. re form since not returned.

9/19, 9:00 PG Mrs. Maron. PG mentioned brought in Dr.'s report to King. Maron said had it. PG confirmed meeting on 9/24.

9/23, 3:15 Dr. Travis PG. He scheduled PG visit in p.m. on 9/24. PG said would be there 12-1:15 because of scheduled meeting w/Team. Dr. Travis said Dan accepted to RDH, would start 9/30. Vornel (?) would be his teacher & Carol Borowka would work w/family. School (King) knew but Dr. hadn't been able to reach PG. Asked to have medical form in ASAP, preferably by 9/20.

10/27, 1:30 PG. Norm Travis left message to be called back.

10/29, 1:15 Travis PG. PG asked about Rutgers has an IEP in additional to the King IEP. N.T.'s we use the school IEP.

11/19, 11:30 PG Mrs. Maron. Mrs. Maron sick so call transferred to Mr. Gugglienne. PG asked for speech IEP requested by mail 10/28 from Mrs. Maron. Mr. G. said he had posted request to Speech Therapist who would forward it.